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used for approved activities. A local account must be established for program income. Each insular area may use either a separate local HOME account or a subsidiary account within its general fund (or other appropriate fund) as the local HOME account. HUD will recapture HOME funds in the HOME Treasury account by the amount of:

(A) Any funds that are not committed within 24 months after the last day of the month in which HUD notifies the insular area of HUD's execution of the HOME Investment Partnership Agreement;

(B) Any funds that are not expended within five years after the last day of the month in which HUD notifies the insular area of HUD's execution of the HOME Investment Partnership Agreement; and

(C) Any penalties assessed by HUD under § 92.552.

(ii) Section 92.502 (Program disbursement and information system) applies, except that references to the HOME Investment Trust Fund mean HOME account. In addition, § 92.502(c) does not apply, and instead compliance with Treasury Circular No. 1075 (31 CFR part 205) and 24 CFR 85.21 is required.

(iii) Section 92.503 (Program income, repayments, and recaptured funds) applies, except that the funds may be retained provided the funds are used for eligible activities in accordance with the requirements of this section.

(3) Section 92.504 (Participating jurisdiction responsibilities; written agreements; on-site inspections) applies, except that the written agreement must ensure compliance with the requirements in this section.

(4) Section 92.508 (Recordkeeping) applies with respect to the records that relate to the requirements of this section.

(5) Section 92.509 (Performance reports) applies, except that a performance report is required for the fiscal year allocation only after completion of the approved projects funded by the allocation.

(6) Subpart L (Performance Reviews and Sanctions): Section 92.552 does not apply. Instead, § 92.65 applies.

(b) The requirements of subpart H (Other Federal Requirements) of this part apply as follows: § 92.357 Executive

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Order 12372 applies as written, and the requirements of the remaining sections which apply to participating jurisdictions are applicable to the insular areas.

(c) Subpart B (Allocation Formula), subpart C (Consortia; Designation and Revocation as a Participating Jurisdiction), subpart D (Submission Requirements), and subpart G (Community Housing Development Organizations) of this part do not apply.

(d) Subpart A (General) applies, except that for the definitions of *commitment*, *program income*, and *subrecipient*, “participating jurisdiction” means “insular area.”

§ 92.65 Funding sanctions.

Following notice and opportunity for informal consultation, HUD may withhold, reduce or terminate the assistance where any corrective or remedial actions taken under § 92.551 fail to remedy an insular area's performance deficiencies, and the deficiencies are sufficiently substantial, in the judgment of HUD, to warrant sanctions.

§ 92.66 Reallocation.

Any HOME funds which are reduced or recaptured from an insular area's allocation and which are not used to increase the allocation amount for one or more of the remaining insular areas as provided in § 92.60 of this part, will be reallocated by HUD to the States in accordance with the requirements in subpart J for reallocating funds initially allocated to a State.

Subpart C—Consortia; Designation and Revocation of Designation as a Participating Jurisdiction

§ 92.100 [Reserved]

§ 92.101 Consortia.

(a) A consortium of geographically contiguous units of general local government is a unit of general local government for purposes of this part if the requirements of this section are met.

(1) One or more members of a proposed consortium or an existing consortium whose consortium qualification terminates at the end of the fiscal year, must provide written notification

to the HUD Field Office of its intent to participate as a consortium in the HOME Program for the following fiscal year. HUD shall establish the deadline for this submission.

(2) The proposed consortium must provide, at such time and in a manner and form prescribed by HUD, the qualification documents, which will include submission of:

(i) A written certification by the State that the consortium will direct its activities to alleviation of housing problems within the State; and

(ii) Documentation which demonstrates that the consortium has executed one legally binding cooperation agreement among its members authorizing one member unit of general local government to act in a representative capacity for all member units of general local government for the purposes of this part and providing that the representative member assumes overall responsibility for ensuring that the consortium's HOME Program is carried out in compliance with the requirements of this part.

(3) Before the end of the fiscal year in which the notice of intent and documentation are submitted, HUD must determine that a proposed consortium has sufficient authority and administrative capability to carry out the purposes of this part on behalf of its member jurisdictions. HUD will endeavor to make its determination as quickly as practicable after receiving the consortium's documentation in order to provide the consortium an opportunity to correct its submission, if necessary. If the submission is deficient, HUD will work with the consortium to resolve the issue, but will not delay the formula allocations. HUD, at its discretion, may review the performance of an existing consortium that wishes to requalify to determine whether it continues to have sufficient authority and administrative capacity to successfully administer the program.

(b) A metropolitan city or an urban county may be a member of a consortium. A unit of general local government that is included in an urban county may be part of a consortium, only if the urban county joins the consortium. The included local government cannot join the consortium ex-

cept through participation in the urban county.

(c) A non-urban county may be a member of a consortium. However, the county cannot on its own include the whole county in the consortium. A unit of local government located within the non-urban county that wishes to participate as a member of the consortium must sign the HOME consortium agreement.

(d) If the representative unit of general local government distributes HOME funds to member units of general local government, the representative unit is responsible for applying to the member units of general local government the same requirements as are applicable to subrecipients.

(e) The consortium's qualification as a unit of general local government continues for a period of three successive Federal fiscal years, or until HUD revokes its designation as a participating jurisdiction, or until an urban county member fails to requalify under the CDBG program as an urban county for a fiscal year included in the consortium's qualification period, or the consortium fails to receive a HOME allocation for the first Federal fiscal year of the consortium's qualification period and does not request to be considered to receive a HOME allocation in each of the subsequent two years. However, if a member urban county's three year CDBG qualification cycle is not the same as the consortium, the consortium may elect a shorter qualification period than three years to synchronize with the urban county's qualification period. During the period of qualification, additional units of general local government may join the consortium, but no included unit of general local government may withdraw from the consortium. See 24 CFR part 91, subpart E, for consolidated plan requirements for consortia, including the requirement that all members of the consortia must be on the same program year.

(f) The consortium agreement may, at the option of its member units of general local government, contain a provision that authorizes automatic renewals for the successive qualification period of three Federal fiscal years. The provision authorizing automatic

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renewal must require the lead consortium member to give the consortium members written notice of their right to elect not to continue participation for the new qualification period.

[61 FR 48750, Sept. 16, 1996, as amended at 67 FR 61756, Oct. 1, 2002]

§ 92.102 Participation threshold amount.

(a) To be eligible to become a participating jurisdiction, a unit of general local government must have a formula allocation under § 92.50 that is equal to or greater than \$750,000; or

(b) If a unit of general local government's formula allocation is less than \$750,000, HUD must find:

(1) The unit of general local government has a local PHA and has demonstrated a capacity to carry out the provisions of this part, as evidenced by satisfactory performance under one or more HUD-administered programs that provide assistance for activities comparable to the eligible activities under this part; and

(2) The State has authorized HUD to transfer to the unit of general local government a portion of the State's allocation or the State, the unit of general local government, or both, has made available its own resources such that the sum of the amounts transferred or made available are equal to or greater than the difference between the unit of general local government's formula allocation and \$750,000.

(c) In fiscal years in which Congress appropriates less than \$1.5 billion for this part, \$500,000 is substituted for \$750,000 each time it appears in this section.

§ 92.103 Notification of intent to participate.

(a) Not later than 30 days after receiving notice of its formula allocation amount, a jurisdiction must notify HUD in writing of its intention to become a participating jurisdiction.

(b) A unit of general local government that has a formula allocation of less than \$750,000, or less than \$500,000 in fiscal years in which Congress appropriates less than \$1.5 billion for this part, must submit, with its notice, one or more of the following, as appropriate, as evidence that it has met the

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threshold allocation requirements in § 92.102(b):

(1) Authorization from the State to transfer a portion of its allocation to the unit of general local government;

(2) A letter from the governor or designee indicating that the required funds have been approved and budgeted for the unit of general local government;

(3) A letter from the chief executive officer of the unit of general local government indicating that the required funds have been approved and budgeted.

§ 92.104 Submission of a consolidated plan.

A jurisdiction that has not submitted a consolidated plan to HUD must submit to HUD, not later than 90 days after providing notification under § 92.103, a consolidated plan in accordance with 24 CFR part 91.

§ 92.105 Designation as a participating jurisdiction.

When a jurisdiction has complied with the requirements of §§ 92.102 through 92.104 and HUD has approved the jurisdiction's consolidated plan in accordance with 24 CFR part 91, HUD will designate the jurisdiction as a participating jurisdiction.

§ 92.106 Continuous designation as a participating jurisdiction.

Once a State or unit of general local government is designated a participating jurisdiction, it remains a participating jurisdiction for subsequent fiscal years and the requirements of §§ 92.102 through 92.105 do not apply, unless HUD revokes the designation in accordance with § 92.107.

§ 92.107 Revocation of designation as a participating jurisdiction.

HUD may revoke a jurisdiction's designation as a participating jurisdiction if:

(a) HUD finds, after reasonable notice and opportunity for hearing as provided in § 92.552(b) that the jurisdiction is unwilling or unable to carry out the provisions of this part, including failure to meet matching contribution requirements; or